

**OCT 19 2005****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARIO RENE CONTRERAS-RUANO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-72484

Agency No. A90-557-119

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 11, 2005<sup>\*\*</sup>

Before: HALL, T.G. NELSON and TALLMAN, Circuit Judges.

Mario Rene Contreras-Ruano, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") dismissal of his appeal from an immigration judge's ("IJ") order denying his applications for adjustment

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of status, cancellation of removal, and voluntary departure. We dismiss the petition for review.

Contreras-Ruano presents two due process claims in his petition for review. We lack jurisdiction to review his contention that the IJ failed to independently analyze the merits of the application for adjustment of status, because it is not a colorable due process claim. *See Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001) (“ . . . petitioner may not create the jurisdiction that Congress chose to remove simply by cloaking an abuse of discretion argument in constitutional garb.”).

Although Contreras-Ruano’s contention that the IJ was biased does present a colorable due process claim, we lack jurisdiction to review it because Contreras-Ruano did not exhaust that claim before the BIA. *See Sanchez-Cruz v. INS*, 255 F.3d 775, 780 (9th Cir. 2001). Contreras-Ruano’s allegations before the BIA that the IJ assigned too much weight to negative factors were insufficient to raise and exhaust this due process claim. *Cf. Socop-Gonzalez v. INS*, 272 F.3d 1176, 1184-86 (9th Cir. 2001).

**PETITION FOR REVIEW DISMISSED.**